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John Housler

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EXAMINER

BUTLER, PATRICK NEAL

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/762,910	Applicant(s) HOUSLER ET AL.	
	Examiner Patrick Butler	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,6,8,13 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5,6,8,13 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 6, 13, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Langdon et al. (US Patent No. 5,549,777).

With respect to Claim 5, Langdon teaches making a three-dimensional laminate web (a three-dimensionally imaged film laminate) (see Abstract) by feeding a nonwoven web of fiber material 202 (providing a support layer comprising a porous web having a fibrous or filamentary network), extruding molten resin 205 from a conventional extruder 104 onto the nonwoven web 202 (providing a molten polymer; extruding said molten polymer onto said support layer) over a forming structure 215 having pentagonally shaped capillaries 140 and an internally located vacuum chamber 220 (providing a foraminous surface comprising a three-dimensional image transfer device; providing a vacuum retention means; positioning said support layer onto said foraminous surface), with the suction great enough to aperture the nonwoven and molten resin web in the areas coinciding with the capillaries 140 so that the resultant macroscopically expanded web 207 is generated (forming a film laminate wherein said vacuum retention means pulls a vacuum on the support layer and molten polymer through a plurality of foramina within said three-dimensional image transfer device wherein the molten polymer

Art Unit: 1791

extruded onto the support layer is integrated into a fibrous or filamentary network of the support layer, resulting in an imaged film laminate) (see col. 11, line 50 through col. 12, line 11; col. 5, lines 27-67; and figs. 3 and 7).

With respect to Claim 6, Langdon teaches that the fed web is nonwoven web of fiber material 202 (wherein said support layer is a nonwoven web) (see col. 11, lines 50-55).

With respect to Claim 13, Langdon teaches that that the vacuum chamber 220 is within forming drum 218 (said vacuum retention means comprises a vacuum roller) (see col. 11, lines 65-67).

With respect to Claim 18, Langdon teaches that the nonwoven below the extruded polymer is polyethylene, polypropylene, or a combination (see col. 6, lines 22-42 and fig. 3).

Claims 5, 6, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright (US Patent No. 5,385,775).

With respect to Claim 5, Wright teaches making a composite elastic material (a method for making a three-dimensionally imaged film laminate) (see abstract) by using a surface of elastomeric filaments 118 (providing a support layer comprising a porous web having a fibrous or filamentary network) to collect extruded fibers 126 (providing a molten polymer; extruding said molten polymer onto said support layer) over a foraminous endless belt 114 (providing a foraminous surface comprising a three-dimensional image transfer device; positioning said support layer onto said foraminous

Art Unit: 1791

surface) (see col. 11, lines 1-14 and 27-54) having vacuum boxes holding material to the belt 114 (see col. 11, lines 43-45). Since fibers and filaments are pressed against the belt's foraminous surface by the vacuum, the holes of the surface would necessarily be reflected in the composite material (forming a film laminate wherein said vacuum retention means pulls a vacuum on the support layer and molten polymer through a plurality of foramina within said three-dimensional image transfer device wherein the molten polymer extruded onto the support layer is integrated into a fibrous or filamentary network of the support layer, resulting in an imaged film laminate).

With respect to Claim 6, Wright teaches using a surface of elastomeric filaments (said support layer is a nonwoven web) (see col. 11, lines 1-14 and 27-54).

With respect to Claim 16, Wright teaches applying meltblown fibers on top of extruded elastomeric filaments (wherein the support layer comprises a spunbond layer) (see col. 11, lines 65-67).

With respect to Claim 16, Wright teaches applying meltblown fibers on top of extruded elastomeric filaments (support layer comprises a spunbond layer) (see col. 11, lines 65-67).

With respect to Claim 17, Wright teaches that that the elastomeric filament's material is polyolefin such as polyethylene, polybutylene, and polypropylene the spunbond layer comprises continuous filaments of polyolefins) (see col. 11, lines 65-67).

With respect to Claim 18, Wright teaches that the extruded elastomeric filaments are made from polyolefins such as polyethylene, polybutylene, and polypropylene the

Art Unit: 1791

spunbond layer comprises continuous filaments of polyolefins) (see col. 11, lines 65-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 8, 13, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (US Patent No. 5,385,775) as applied to claims 5, 6, and 16-18 above, and further in view of Hartman (US Patent No. 3,502,763).

With respect to Claims 5, 6, and 16-18, Wright teaches making a composite material as described above.

If it is held that pressing molted fibers and filaments against a foraminous endless belt 114 using vacuum boxes (see col. 11, lines 27-54) would not cause a three-dimensional structure in the composite material, Hartman teaches using a drum 70 with pyramid-like projections 74 for collection of a extruded nonwoven (see Hartman, col. 7, line 46 through col. 8, line 19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Hartman's drum 70 as the collection surface of Wright in order to provide a composite in the shape of a mesh or woven- or knit-like pattern (see Hartman, col. 7, lines 46-48).

With respect to Claims 8 and 13, Wright teaches making a composite material as described above. As combined, Hartman's drum 70 contains a suction nozzle to arrange the nonwoven on the form 14 (providing a vacuum retention means comprising a vacuum roller) (see col. 5, line 70 through col. 6, line 11).

With respect to Claims 19-21, Wright teaches making a composite material as applied to Claims 16-18 above.

Response to Arguments

Applicant's arguments filed 24 September and 13 December 2007 have been fully considered but they are not persuasive.

Applicant argues with respect to the 35 USC § 103(a) rejections. Applicant's arguments appear to be on the grounds that:

1) Mullane as combined with Brock fails to teach a fibrous or filamentary support layer, extrusion of the molten polymer in the form of a continuous filamentary material, extruding onto the support layer, and the use of a vacuum roller.

The Applicant's arguments are addressed as follows:

1) Applicant's arguments with respect to the newly claimed and combined limitations have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. B./

Examiner, Art Unit 1791

/Monica A Huson/

Primary Examiner, Art Unit 1791